

§ 46.241**27 CFR Ch. I (4–1–07 Edition)**

than \$500. If you have your own employer identification number, you must file a separate tax return. You may take the tax credit discussed in § 46.223 if it is apportioned to you as a member of the controlled group.

RECORDS**§ 46.241 Required records.**

You must maintain:

- (a) Inventory records.
- (b) Tax computations.
- (c) Names, addresses and employer identification number of all controlled group members, if applicable.

(d) Copy of tax return, if you filed one.

(e) List of locations and warehouses covered by the tax return.

(f) Any approved alternate method or procedure under 46.263.

§ 46.242 Period for maintaining records.

An appropriate TTB officer may require, in writing, that you keep records and any tax returns for an additional period of not more than 3 years. Keep your records in accordance with time frames shown in the table to this section.

| If you have: | Maintain your records for at least: |
|--|--|
| Taken an inventory but are not required to file a tax return | 3 years from the tax increase date. |
| Filed a tax return on or before the due date of the return | 3 years from the due date of the tax return, as specified in § 46.234. |
| Filed a tax return after the due date of the tax return | 3 years from the date of filing the tax return. |

§ 46.243 Cigarettes at multiple locations.

You must maintain a list of each place where you hold cigarettes subject to the floor stocks tax. This list must include:

- (a) Address.
- (b) Name of the proprietor (if different).
- (c) The employer identification number (if different).
- (d) Quantity and classification of all cigarettes held at each location.

§ 46.244 Where records must be maintained.

Keep your inventory records at your principal place of business. All records must be made available to an appropriate TTB officer upon demand.

§ 46.245 Errors in records.

If your inventory records or tax computation records contain an error that resulted in an overpayment of tax, you can file a claim for refund. If your inventory or tax computation records contain an error that resulted in an underpayment of tax, you must file an additional tax return on which you show and pay the additional tax, interest and any applicable penalties.

CLAIMS**§ 46.251 Before filing a claim.**

Before you can file a claim for refund, you must have paid your floor stocks tax on TTB F 5200.28T and subsequently determined that you overpaid the tax.

§ 46.252 When to file a claim for errors on return.

You must file the claim within 3 years from the due date of filing the tax return or 2 years from the time the tax was paid, whichever is later.

§ 46.253 How to file a claim for errors on return.

Your claim must be filed on TTB Form 2635 (5620.8). The claim must include detailed and sufficient evidence to support why you believe the tax was overpaid. The claim and supporting documentation must be mailed or delivered to the address shown on the form.

(Approved by the Office of Management and Budget under control number 1512-0554)

§ 46.254 Destruction of cigarettes by a Presidentially-declared major disaster.

After you have paid the floor stocks tax, you may file a claim for refund of

tax on cigarettes lost, rendered unmarketable, or condemned because of a Presidentially-declared major disaster. Refer to subpart C of this part for the time, evidence and procedures for filing a claim.

§ 46.255 Additional reasons for filing a claim.

(a) *Manufacturer.* 27 CFR part 40, subparts I and K state the times, reasons and procedures for filing a claim for refund.

(b) *Export warehouse proprietor.* 27 CFR part 44, subpart G, states the time, evidence and procedures for filing a claim for refund.

(c) *Exported taxpayer.* If cigarettes are shipped from the United States, you may file a claim for drawback of taxes under subpart K of 27 CFR part 44.

(d) *Importer.* An importer may follow the procedures for filing a claim as described in 27 CFR part 41, subpart I.

[T.D. ATF-423, 64 FR 71958, Dec. 22, 1999, as amended by T.D. ATF-460, 66 FR 39093, July 27, 2001; T.D. ATF-464, 66 FR 43479, Aug. 20, 2001; T.D. TTB-16, 69 FR 52423, Aug. 26, 2004]

ALTERNATE METHODS OR PROCEDURES

§ 46.261 Purpose of an alternate method or procedure.

An alternate method or procedure is a different way of performing a requirement than is provided in this subpart of regulations. You would only make a request if you wanted to perform a requirement in a different way than is provided in this subpart.

§ 46.262 How to apply for approval.

You must apply in writing to the National Revenue Center, 550 Main Street, Cincinnati, Ohio 45202-3263. You must describe the alternate method or procedure and reasons you wish to use it. You cannot use the alternate method until you receive written approval from the appropriate TTB officer.

(Approved by the Office of Management and Budget under control number 1512-0554)

§ 46.263 Conditions for approval.

The alternate method or procedure may be approved if it meets all of the following conditions:

- (a) There is good cause for its use.

(b) It is consistent with the purpose and effect intended by the prescribed method or procedure.

(c) It affords equivalent security to the revenue.

(d) It is not contrary to any provision of law.

(e) It will not result in an increase in cost to the Government.

(f) It will not hinder the effective administration of this subpart such as delaying timely payment of taxes.

(g) It is not a method or procedure that relates to the payment or collection of tax.

§ 46.264 Withdrawal of an alternate method or procedure.

The approval will be withdrawn if revenue is jeopardized or administration of this subpart is hindered. The appropriate TTB officer will give you a written notice of the withdrawal.

TTB AUTHORITIES

§ 46.270 [Reserved]

§ 46.271 Entry, examination and testimony.

Appropriate TTB officers, in performing official duties, may enter any premises to examine cigarettes subject to floor stocks tax. They may enter the premises during the day or may also enter at night if the premises are open. Appropriate TTB officers may audit and examine all cigarettes, inventory records, books, papers, or other resource data for the purpose of ascertaining, determining or collecting floor stocks tax. They may take testimony (under oath) of any person when inquiring as to proper payment of floor stocks taxes.

§ 46.272 Issuance of summons.

Appropriate TTB officers can issue summonses when there is no Justice Department referral under the authority stated in 27 CFR 70.22. The summons will state a place and time for such items or person to appear. TTB will issue a summons to require:

(a) Any books of account or other data pertaining to liability of floor stocks tax.

(b) Any person liable for the floor stocks tax or having possession of books of account or other data.